

**COURT OF APPEALS
DECISION
DATED AND FILED**

February 24, 1998

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

No. 97-2850-FT

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

**IN THE INTEREST OF ROBERT E.O., A PERSON UNDER
THE AGE OF 18:**

STATE OF WISCONSIN,

PETITIONER-RESPONDENT,

v.

ROBERT E.O.,

RESPONDENT-APPELLANT.

APPEAL from orders of the circuit court for Milwaukee County:
DANIEL L. KONKOL, Judge. *Affirmed.*

SCHUDSON, J. Robert E.O. appeals from the juvenile court Order for Extension/Change of Placement of Dispositional Order, and from the order denying his post-conviction motion. He argues that "the trial court violate[d] the statutory rule that no juvenile extension may extend beyond one year

from entry when it extended [him] for eighteen months." *See* §§ 48.355(4) and 48.365(5), STATS., 1993-94. This court affirms.

The facts, while confusing, are undisputed:

On January 10, 1996, the juvenile court entered a dispositional order adjudicating Robert a delinquent and placing him on probation, at a residential treatment center, for one year — to January 10, 1997.¹

On July 18, 1996, the juvenile court entered an Order for Extension/Revision and Change of Placement of Dispositional Order, changing Robert's placement to his mother's home, and extending probation "for a period of one (1) year from date hereof to 7/18/97."

On September 24, 1996, the juvenile court entered an Order for Extension/Change of Placement of Dispositional Order, finding "that it is in the best interests of [Robert E.O.] and for the public that the original dispositional order entered on the 10th day of January, 1996 be further extended." The written order's very confusing language states:

Court extends and revises order of probation as to Robert [E.O.] and changes placement to the **Ethan Allen School/Wales** with the Department of Corrections, Division of Juvenile Corrections made on 01/10/96 and revised and extended on 7/18/96 for a period of nine months from date of expiration to 4/18/98.

¹ In providing the chronology of this case, the parties have used the dates on which the trial court made its decisions, not the date on which the orders were filed with the clerk of courts. This court's decision also will utilize the trial court's decision dates. *But see Schoenwald v. M.C.*, 146 Wis.2d 377, 382-83, 432 N.W.2d 591 (Ct. App. 1988); *see also* §§ 807.11(2) and 48.355(4), STATS, 1993-94.

In contradiction, however, the order further specifies: "Date Extension/Revision Expires July 18th, 1998."

On October 3, 1996, the juvenile court entered an amended order repeating the terms of the September 24 order but reconciling the dates by specifying: "Date Extension/Revision Expires April 18th, 1998."

On July 24, 1997, the parties submitted a stipulation requesting an Order Correcting Extension Order. Their proposed order stated that "the record be amended to reflect that: The extension of the dispositional order in this case is reduced from eighteen months to one year from September 24, 1996."

In a letter dated July 31, 1997, the juvenile court declined to sign the proposed Order Correcting Extension Order, explaining:

The previous dispositional order which would have expired on July 18, 1997 was extended for nine months until 4-18-98. When I referred to transferring custody of the juvenile to the Department of Corrections for 18 months, I was addressing both the requests for changing placement and extension. I was referring to first: changing placement of the juvenile to the Department of Corrections at Wales for the balance of the dispositional order (9/24/96 to 7/18/97); and then second, to extending the dispositional order for nine months (7/18/97 to 4/18/98). The total time period I was looking at was the next 18 months from the hearing date of 9/24/96.

I particularly did not extend the order which otherwise would expire on 7/18/97 for an additional 18 months beyond its scheduled expiration date. Neither did I reduce the time remaining on the dispositional order. I extended the dispositional order nine months from the date it would otherwise have expired

I note that the Assistant District Attorney entering an extension that would include a time period of only "... one year from today's date," but he also recommended another time for extension which would provide "... an order longer than one year" from that hearing date.

Since the 7/18/96 order had not expired as of the 9/24/96 hearing date, any time computation prior to the expiration on 7/18/97 could not be considered an extension. Rather than the two month extension being initially recommended, I went with a nine month time period.

(transcript citations omitted).

Although Robert offers persuasive arguments to support his contention that a dispositional order may be extended for no more than one year at a time and that the year must be pegged to the original order's expiration date, he fails to clarify what, exactly, he is challenging in this case. Carefully reviewing the record and Robert's arguments, and attempting to pinpoint Robert's challenge, this court can locate two areas where court-ordered extensions could be at issue: 1) the July 18, 1996 order extending the original order to July 18, 1997; and 2) the September 24, 1996 order (as amended on October 3, 1996) extending the extended order to April 18, 1998.

The first extension — ordered on July 18, 1996 — resulted in a span of eighteen months and eight days from the original order. Thus, this court could assume that Robert's challenge may be to this first extension because he repeatedly refers to an "eighteen month" extension. What he does not refer to, however, is his agreement to that extension before the juvenile court. At the July 18, 1996 hearing, the juvenile court's order was based, in part, on the parties' agreement:

[Assistant District Attorney]: ... I'd ask that the Court at least grant *a full year's extension from today's date*

THE COURT: Fine. Mr. [Counsel for Robert].

[Counsel for Robert]: I agree with Mr. [Assistant District Attorney]. And I talked to my client about the need for services, and he's in agreement as well.

...

And Robert really doesn't have a problem with extending the existing order.

(Emphasis added.)

Thus, if this first extension was valid, it extended the dispositional order to July 18, 1997. Then, when the juvenile court extended the order again — to April 18, 1998 — it did so for a period of only nine months.

With that understanding, this court might view Robert's challenge to an "eighteen month" extension as one that necessarily focuses on the first extension order extending the original order for one year from the date of the extension hearing, thus rendering an eighteen-month and eight-day period from the commencement of the original order to the termination of the extended order.

But not so fast. When the parties submitted a stipulation to the trial court, they proposed to reduce the extension "from eighteen months to one year from September 24, 1996." The September 24 order, however, as amended, ordered an extension of only nine months. Thus, unless that period is somehow laced to the earlier extension to which Robert agreed, it is difficult to discern the connection between the September 24, 1996 order and Robert's present argument. The juvenile court's letter of July 31, 1997 clarifies *its* understanding, but does little to assist this court in framing the precise dispute and arguments on appeal.

Perhaps Robert is focusing only on the September 24 order because, he notes, "[t]he judgment roll identified that the court extended and revised the order of probation 'for a period of 18 months.'" The undisputed facts and orders, however, counter the judgment roll entry and establish that the second extension, as amended, added nine months to the period of the earlier extension.

Thus, while an interesting issue may be lurking somewhere in this case, the briefs do not provide the arguments that perhaps could have revealed it. And although this court has attempted to dislodge from the record what it thought might have been an obvious jurisdictional issue, it has been unable to do so. Accordingly, this court concludes that Robert has failed to establish any factual or legal basis for relief. *See Barakat v. DHSS*, 191 Wis.2d 769, 786, 530 N.W.2d 392, 398-99 (Ct. App. 1995) (appellate court need not consider "amorphous and insufficiently developed" arguments).

By the Court.—Orders affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)4, STATS.

